

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

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Public Session Location - Room 150  
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

MAY 23, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President  
Ron Alvarado, Vice President  
William Elkins, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

A.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

A.

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4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

A.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 2, 2000

ACTION: Adopted on May 23, 2000.

VOTE: Bos, Alvarado, Elkins - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On May 23, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Elkins - Aye.

PROPOSED DECISIONS

LONNIE DeWITT, CASE NO. 00-0028

Appeal from rejection

Department of Social Services

ACTION: Rejection affirmed and appeal denied

LAWRENCE WEST, JR., CASE NO. 00-0084

Appeal from termination without fault

Department of Forestry and Fire Protection

ACTION: Termination sustained without fault

ANNETTA I. ANDRUS, CASE NO. 00-0253

Appeal from dismissal

Department of Motor Vehicles

ACTION: Dismissal modified to 30-calendar day's suspension

TOM ROGERS, CASE NO. 98-4188

Appeal from dismissal

Franchise Tax Board

ACTION: Dismissal sustained

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CHARLES HAAS, CASE NO. 98-4991  
Appeal from discrimination complaint  
Department of Forestry and Fire Protection  
ACTION: Complaint sustained

STEVIE PEEK, CASE NO. 99-0749  
Appeal from dismissal  
California State University, Fullerton  
ACTION: Dismissal sustained

WILLIAM WILSON, CASE NO. 99-1661  
Appeal from dismissal  
Department of Corrections  
ACTION: Dismissal sustained

RAED KHAMMASH, CASE NO. 99-3586  
Appeal from denial of request for reasonable  
accommodation  
Department of Transportation  
ACTION: Appellant's request for reasonable accommodation  
granted

DENNIS E. BUTTERBAUGH, CASE NO. 99-4414  
Appeal from dismissal  
Department of Parks and Recreation  
ACTION: Dismissal sustained

OPHELIA C. DeCASAS, CASE NO. 99-4972  
Appeal from official reprimand  
Department of Motor Vehicles  
ACTION: Official reprimand sustained

MARIO R. SOTO, CASE NO. 99-5252  
Appeal from 5-working day's suspension  
DANNY L. MENDOZA, III, CASE NO. 99-5261  
Appeal from 10-working day's suspension  
Department of Corrections  
ACTION: Suspensions revoked

FRED V. HAZEL, CASE NO. 99-5330  
Appeal from 10-working day's suspension  
Department of Corrections  
ACTION: Suspension revoked

DIANE VILLANUEVA, CASE NO. 98-2787  
Appeal from 1-step reduction in salary for 6 pay periods

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State Board of Equalization

ACTION: Reduction in salary sustained

MICHAEL EVANS

Request to file charges against

GAYLE WELCH-BROWN, CASE NO. 97-2056

State Controller's Office

ACTION: Appropriate discipline determined to be a 5-day suspension

DIANNA HENNING, CASE NO'S. 98-4118 & 99-0772

Appeal from denial of request for reasonable accommodation and medical demotion

Department of Corrections

ACTION: Appeal of denial of request for reasonable accommodation denied and medical demotion sustained

ADELAIDE T. BAKER, CASE NO. 99-0692

Appeal from dismissal

Department of Motor Vehicles

ACTION: Dismissal sustained

MARTIN L. SMITH, CASE NO. 98-4017

Appeal from dismissal

Department of Fish and Game

ACTION: Dismissal modified to 1-year suspension

DANIEL TWENTE, CASE NO. 99-2522

Appeal from dismissal

Department of Consumer Affairs

ACTION: Dismissal sustained

#### PETITIONS FOR REHEARING

KENNETH SEARVANCE, CASE NO. 99-3440

Appeal from 5 percent reduction in salary for 12 months

Department of Corrections

ACTION: Petition for rehearing filed by appellant denied

MICHAEL R. GONZALES, CASE NO. 99-4850

Appeal from termination with fault

Department of Forestry and Fire Protection

ACTION: Petition for rehearing filed by appellant denied

FREDERICK ROBERTSON, CASE NO. 99-3880

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Appeal from dismissal  
Department of Developmental Services  
ACTION: Petition for rehearing filed by respondent  
denied

ELSA FIRA-COMULADO, CASE NO. 99-2030  
Appeal from demotion  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

TERRY SCOTT, CASE NO. 99-2609  
Appeal from 10 percent reduction in salary for 1 year  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

KHAIRY E. AREF, CASE NO. 99-3347  
Appeal from 1-step reduction in salary for 6 months  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

CHRISTINE FEARING, CASE NO. 99-0448  
Appeal from constructive medical termination  
California State University, Northridge  
ACTION: Petition for rehearing filed by appellant denied

JOHN COLLIER, III, CASE NO. 99-2721  
Appeal from dismissal  
Department of Corrections  
ACTION: Petition for rehearing filed by appellant denied

MARY NOGUCHI, CASE NO. 99-0643  
Appeal from demotion  
Department of General Services  
ACTION: Petition for rehearing filed by respondent  
denied

CHRISTOPHER C. RODGERS, CASE NO. 99-3558  
Appeal from rejection  
Department of Developmental Services  
ACTION: Petition for rehearing filed by appellant denied

JAMES LEKSAN, CASE NO. 99-1242  
Appeal from 60 days suspension  
Department of Corrections  
ACTION: Petition for rehearing filed by respondent  
denied

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7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages xx-xx

8. MISCELLANEOUS APPEALS DIVISION CASES  
(Discrimination Complaints, Withholds, Voided  
Appointments, Rule 211 Appeals, Petitions for Rehearing)  
On May 23, 2000, the Board adopted the following  
decisions presented by Linda Brooks, Assistant Executive  
Officer, California State Personnel Board.  
VOTE: Bos, Alvarado, Elkins - Aye.

WITHHOLD DENIAL CASES

- A. ANTONIO BRUSCHI, CASE NO. 99-4079  
Classification: Correctional Officer  
ACTION: DENIED
- B. ANTHONY DIAZ, CASE NO. 99-4080  
Classification: Cadet, California Highway Patrol  
ACTION: DENIED
- C. THOMAS FIERRO, CASE NO. 99-4175  
Classification: Correctional Officer  
ACTION: DENIED
- D. JEFFREY HAYER, CASE NO. 99-4169  
Classification: Cadet, California Highway Patrol  
ACTION: DENIED
- E. ROBERT HUGHES, CASE NO. 99-4168  
Classification: Cadet, California Highway Patrol  
ACTION: DENIED
- F. JEROME MAULL, CASE NO. 99-3826  
Classification: Correctional Officer  
ACTION: DENIED
- G. JOSEPH LOURENCO MELLO, CASE NO. 99-4306  
Classification: Correctional Officer  
ACTION: DENIED

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- H. ROBERT OCHOA, CASE NO. 99-3647  
Classification: Correctional Officer  
ACTION: DENIED
- I. RICHARD QUIROGA, CASE NO. 99-4078  
Classification: Correctional Officer  
ACTION: DENIED
- J. LAURA SIMMONS, CASE NO. 99-4170  
Classification: Cadet, California Highway Patrol  
ACTION: DENIED
- K. JULIUS K. WALLACE, CASE NO. 99-3751  
Classification: Youth Correctional Officer  
ACTION: DENIED
- L. MICHAEL YUNK, CASE NO. 99-4077  
Classification: Correctional Officer  
ACTION: DENIED

DISMISSAL CASES

- M. JESUS A. AQUINO, CASE NO. 00-0611  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- N. TRESHONNE BROOKS, CASE NO. 00-0368  
Classification: Correctional Officer  
ACTION: DISMISSED
- O. JAIME R. REYES, CASE NO. 00-0777  
Classification: Correctional Officer  
ACTION: DISMISSED
- P. CHRISTOPHER WUEST, CASE NO. 00-0685  
Classification: Correctional Officer  
ACTION: DISMISSED

9. MEDICAL APPEALS

On May 23, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Elkins - Aye.

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- A. RITA GUTTERIEZ, CASE NO. 99-3453  
Classification: Psychiatric Technician  
ACTION: GRANTED

RESCIND CASE

- B. DAVID M. TAYLOR, CASE NO. 00-0421  
Classification: Cadet, California Highway Patrol  
ACTION: RESCINDED

DISMISSAL CASES

- C. THOMAS DIXON, CASE NO. 00-0552  
Classification: Senior Special Investigator  
ACTION: DISMISSED
- D. JUAN G. HALL, CASE NO. 00-0886  
Classification: Correctional Counselor I  
ACTION: DISMISSED
- E. HAROLD E. HUTTNER, CASE NO. 99-5220  
Classification: Correctional Officer  
ACTION: DISMISSED
- F. CASSIE JONES, CASE NO. 00-1107  
Classification: Youth Correctional Counselor  
ACTION: DISMISSED
- G. MARIO LEOS, CASE NO. 00-0096  
Classification: Cadet, California Highway Patrol  
ACTION: DISMISSED
- H. JOSE L. MACEDO, CASE NO. 99-5324  
Classification: Youth Correctional Officer  
ACTION: DISMISSED
- I. IRRY A. MARK, CASE NO. 00-0500  
Classification: Youth Correctional Officer  
ACTION: DISMISSED
- J. SHAUNA MARQUEZ, CASE NO. 00-1060  
Classification: Unknown  
ACTION: DISMISSED
- K. RONALD J. SIMMONS, CASE NO. 00-0558



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Classification: Correctional Officer  
ACTION: DISMISSED

L. OSCAR SINGH, CASE NO. 00-0329  
Classification: Correctional Officer  
ACTION: DISMISSED

10. EXAMINATION APPEALS

On May 23, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Elkins - Aye.

DISMISSAL CASE

A. ERIC WITZEL, CASE NO. 99-4755  
Classification: Correctional Officer  
ACTION: DISMISSED

11. REQUEST TO FILE CHARGES CASES

On May 23, 2000, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Elkins - Aye.

A. MICHAEL S. GREENE, Case No. 99-1118  
Classification: Medical Technical Assistant  
ACTION: DENIED

12. NON-HEARING CALENDAR

On May 23, 2000, the Board adopted items A-C. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Elkins - Aye.

A. WATER RESOURCE CONTROL ENGINEER SERIES  
SENIOR WATER RESOURCE CONTROL ENGINEER  
ASSOCIATE WATER RESOURCE CONTROL ENGINEER  
The State Water Resources Control Board proposes to revise the Water Resource Control Engineer series specification to include a Range C for the non-registered full journey level and Range D for the

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registered full journey level; to establish Alternate Range Criteria 424; to increase the probationary period for the Senior Water Resource Control Engineer classification to 12 months; and to abolish the Associate Water Resource Control Engineer classification.

- B. OCCUPATIONAL THERAPY ASSISTANT (SAFETY)  
The Department of Developmental Services proposes to establish the class of Occupational Therapy Assistant (Safety) with a six-month probationary period.
- C. PRINCIPAL PROGRAM BUDGET ANALYST  
The Department of Finance proposes to revise the series specification for the Principal Program Budget Analyst.

13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION
  - (1) CHIEF, ADMINISTRATION DIVISION  
The Department of Managed Care proposes to allocate the above position to the CEA category to be responsible for the planning, organizing and directing of administrative affairs and support services, including accounting, fiscal management, human resources and business services. The department indicates that the position will be at the second organizational level and will report to the Director.
  - (2) CHIEF DEPUTY INSPECTOR GENERAL (Two positions)  
CHIEF ASSISTANT INSPECTOR GENERAL  
The Office of the Inspector General proposes to allocate the above positions to the CEA category to be responsible for Special Investigations; Audits and Administration; and to act as the Special Advisor to the Inspector General. The department has indicated that these positions will be at the first organizational level and will report to the Inspector General/Governor.

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(3) CHIEF, OFFICE OF INFORMATION TECHNOLOGY AND  
QUALITY MANAGEMENT

The Department of Parks and Recreation proposes to allocate the above position to the CEA category to provide executive level policy development, leadership and direct the formulation, administration and evaluation of statewide programs in the areas of information technology and quality management. The department has indicated that this position will be at the second organizational level and will report to the Chief Deputy Director, Administrative Services.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

(1) REGIONAL ADMINISTRATOR

The Department of Child Support Services' proposal to allocate the above positions to the CEA category has been approved effective April 21, 2000.

C. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND  
1/1/99

(1) CHIEF, ADMINISTRATIVE LAW JUDGE

The Department of Health Services' request to refill the above position has been approved effective April 21, 2000.

ACTION: Noted

16. WRITTEN STAFF REPORT FOR BOARD INFORMATION

A. The Annual Report to the Legislature on 1999 Formal Discrimination Complaint Activity in the State Civil Service is submitted in compliance with Government Code Section 19702.5 (c).

ACTION: Report presented

A D J O U R N M E N T

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SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN  
(Hearing held February 9, 2000).

NO ACTION

2. JAMES BLANCHARD, CASE NO. 99-3198. Appeal from constructive demotion. Department of Corrections. (Oral argument held May 2, 2000).

NO ACTION

3. NICHOLAS LEON, CASE NO. 98-3392. Appeal from 40-calendar day suspension. Department of Corrections. (Oral argument held May 2, 2000).

NO ACTION

4. APPEAL OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS (IUOE) FROM THE EXECUTIVE OFFICER'S APPROVAL OF CALIFORNIA SCIENCE CENTER'S (CSC) COST-SAVINGS CONTRACT FOR EXPOSITION PARK GROUNDS MAINTENANCE PURSUANT TO GOVERNMENT CODE § 19130 (a). (Hearing held May 2, 2000).

NO ACTION

5. JANET G. HOUCHENS, CASE NO. 99-0891. Appeal from 5 percent reduction in salary for 1 month. Department of Forestry and Fire Protection. (Written argument presented May 2, 2000).

NO ACTION

6. SYLVIA C. SOLIS, CASE NO. 99-0574. Appeal from medical termination. Department of Motor Vehicles. (Written argument presented May 2, 2000).

NO ACTION

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**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

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**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.



\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on May 23, 2000.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Bos, Alvarado, Elkins - Aye.